

### **REMARKS/ARGUMENTS**

Claims 1-4, 6-18, and 20-33 are pending in this Application.

Claims 1,2, 4, 7, 8, 10-18, 20-26, and 29 are currently amended. Applicants submit that support for the claim amendments can be found throughout the specification and the drawings.

Claims 1-4, 6-18, and 20-33 remain pending in the Application after entry of this Amendment. No new matter has been entered.

In the Office Action, claims 1-4, 6-18, and 20-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,035,306 (hereinafter “Lowenthal”) in view of U.S. Patent No. 4,849,879 (hereinafter “Chinnaswamy”).

### **Objections to the Claims**

The Office Action objected to the claims 2-4, 6-13, 16-18, and 20-25 due to alleged informalities. Applicants have amended claims 2-4, 6-13, 16-18, and 20-25 to correct one or more typographical errors. Thus, Applicants respectfully request reconsideration and withdrawal of the objections to claims 2-4, 6-13, 16-18, and 20-25.

### **Claim Rejections Under 35 U.S.C. § 112, First Paragraph**

Applicants respectfully traverse the rejections to claims 14-18, 20-25, and 29-33 and request reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. The Office Action alleges that the specification fails to disclose receiving classification information from a user as recited in claims 14 and 29. Applicants respectfully disagree.

In paragraph [0054], the specification suggests to the reader that in one embodiment a rule tree is a static entity, meaning not dynamically generated or modifiable by users. One of ordinary skill in the art could reasonably understand that based on the disclosure the rule tree alternatively might not be a static entity, meaning that the rule tree could be dynamically generated or modifiable by user. However, Applicants have removed the phrase “from a user” as requested by the Office Action to expedite allowance of the Application.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections to claims 14-18, 20-25, and 29-33 under 35 U.S.C. § 112, first paragraph.

**Claim Rejections Under 35 U.S. C. § 103(a)**

Applicants respectfully traverse the rejections to claims 1-4, 6-18, and 20-33 and request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) based on Lowenthal in view of Chinnaswamy. The Office Action alleges that claimed invention is directed to obvious subject matter, in that the combination of Lowenthal and Chinnaswamy expressly or impliedly suggest the claimed invention or that a convincing line of reasoning has been presented as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the Lowenthal and Chinnaswamy.

Applicants, however, respectfully submit that a prima facie case of obviousness has not been established by the evidence presented in the Office Action. As reiterated by the Supreme Court in KSR International Co. v. Teleflex Inc. (KSR), 550 U.S. \_\_\_, 82 USPQ2d 1385 (2007), the framework for the objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966). The factual inquiries enunciated by the Court are as follows:

- (A) Determining the scope and content of the prior art;
- (B) Ascertaining the differences between the claimed invention and the prior art;

and

- (C) Resolving the level of ordinary skill in the pertinent art.

To reach a proper determination under 35 U.S.C. § 103(a), the Examiner must step backward in time and into the shoes worn by the hypothetical “person of ordinary skill in the art” when the invention was unknown and just before it was made. In view of all factual information, the Examiner must then make a determination whether the claimed invention “as a whole” would have been obvious at that time to that person. (M.P.E.P. § 2142).

Applicants respectfully submit that Lowenthal and Chinnaswamy, either individually or in combination, fail to disclose one or more of the claim limitations recited in each of claims 1-4, 6-18, and 20-33. These differences, along with other difference, establish

that the subject matter as a whole of claims 1-4, 6-18, and 20-33 would not have been obvious at the time of invention to a person of ordinary skill in the art.

For example, claim 1 recites the feature of “receiving at the ADDM device operations performed in a database classified as one or more performance problems through a set of rules, each rule in the set of rules defining one or more symptoms and at least one root performance problem.” The Office Action continues to allege that Lowenthal discloses a set of rules classifying operations performed in a database as one or more performance problems as recited in amended claim 1.

The Office Action points to Col. 5, lines 11-25 which merely describes that if Table A and Index 1 of Lowenthal are heavily used, the disk strips corresponding to these objects in the database will be overloaded generating an activity “hot spot.” However, the Office Action fails to establish where Lowenthal discloses receiving operations performed in a database classified as one or more performance problems through a set of rules as recited in amended claim 1. Table A and Index 1 of Lowenthal are objects in the database, the disk strips are locations on a storage disk, and the data indicating strip usage is just data, thus all are substantially different from the operations or the rules that classify the operations performed in a database as one or more performance problems as recited in amended claim 1.

Thus, Lowenthal is substantially different from the invention recited in claim 1 because Lowenthal does not disclose the set of rules as recited in claim 1. Lowenthal is further directed to “a tool with which a DBA can analyze a VLDB at all levels of data storage...to determine what is causing hotspots.” (Lowenthal: Abstract). Thus, the principle of operation of invention of Lowenthal is directed to allowing the DBA to view the data collected by the system and then allowing the DBA to make a determination as to how to classify a performance problem from the statistical information. As recited in amended claim 1, operations performed in a database are already classified as one or more performance problems through a set of rules.

The Office Action further fails to consider the differences between the invention recited in claim 1 and Chinnaswamy. The Office Action alleges that Chinnaswamy discloses a

set of rules defining one or more symptoms and at least one root problem as recited in claim 1. Applicants respectfully disagree.

In Col. 10, lines 24-52, Chinnaswamy merely suggests that rules themselves can generally be classified. Thus, Chinnaswamy does not disclose receiving at the ADDM device operations performed in a database classified as one or more performance problems through a set of rules, each rule in the set of rules defining one or more symptoms and at least one root performance problem, as recited in amended claim 1, but merely that the rules of Chinnaswamy themselves can simply be classified.

Finally, Lowenthal merely suggests that the system may recommend using more disks for a stripeset. However, Lowenthal fails to disclose that the system provides the recommendation to use more disks based on the set of rules as recited in amended claim 1, where each rule specifies at least one root performance problem as recited in amended claim 1.

Therefore, Applicants respectfully submit that amended claim 1 is allowable over the cited references. Applicants respectfully submit that independent claims 14, 26, and 29 are allowable for at least a similar rationale as discussed above for the allowability of claim 1, and others. Applicants respectfully submit that dependent claims 2-4 and 6-13, 15-18 and 20-25, 27-28, and 30-33 that depend directly and/or indirectly from the independent claims 1, 14, 26, and 29 respectively, are also allowable for at least a similar rationale as discussed above for the allowability of the independent claims. Applicants further respectfully submit that the dependent claims recite additional features that make the dependent claims allowable for additional reasons.

Unless otherwise specified, amendments to the claims are made for the purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof.

While Applicants do not necessarily agree with the prior art rejections set forth in the Office Action, these amendments may be made to expedite issuance of the Application. Applicants reserve the right to pursue claims to subject matter similar to those pending before the present Amendment in co-pending or subsequent applications.

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Amdt. dated January 19, 2009  
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Examining Group 2191

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**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,

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